

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION**

<b>In the matter of:</b>	)	<b>Complaint No. R4-2008-0036</b>
	)	<b>Mandatory Minimum Penalty</b>
	)	<b>for</b>
<b>Six Flags Theme Parks, Inc.</b>	)	<b>Violation of California Water Code § 13376</b>
<b>Six Flags Magic Mountain</b>	)	<b>and</b>
<b>Valencia, California 91385</b>	)	<b>Order Nos. 98-005, R4-2005-0036 and R4-2005-0043 (NPDES No. CA0003352)</b>

This Complaint to assess the mandatory minimum penalty pursuant to California Water Code (CWC) § 13385, subdivisions (h) & (i) is issued to Six Flags Theme Parks, Inc. (hereinafter Permittee) based on a finding of violations of waste discharge requirements prescribed in Order Nos. 98-005, R4-2005-0036, and R4-2005-0043 (NPDES No. CA0003352, CI No. 6045).

**The Chief Deputy Executive Officer of the Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds the following:**

1. The Permittee operates Six Flags Magic Mountain (hereinafter facility) located at 26101 West Magic Mountain Parkway, Valencia, California. The Permittee can discharge up to 1.52 million gallons per day (mgd) of wastewater and up to 2.5 million gallons of storm water runoff when rainfall exceeds one inch, through Discharge Serial No. 001 (Latitude 34° 25' 41", Longitude 118° 35' 27"), Discharge Serial No. 002 (Latitude 34° 30' 47", Longitude 118° 35' 38"), and Discharge Serial No. 003 (Latitude 34° 25' 58", Longitude 118° 35' 52"). The wastewater is susceptible of containing total suspended solids (TSS), settleable solids, turbidity, oil & grease (O&G), total dissolved solids (TDS), residual chlorine, chloride, copper, fecal coliform and other pollutants which can degrade water quality and impact beneficial uses of water, and which are defined as wastes under the Porter-Cologne Water Quality Control Act (CWC § 13000 et seq.). The wastewater flows through Discharge Serial Nos. 001, 002, and 003 into a storm drain, thence to the Santa Clara River, a navigable water of the United States.
2. From January 29, 1998 to June 10, 2005, the Permittee discharged wastewater from the facility under waste discharge requirements (WDRs) contained in Order No. 98-005 adopted by the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) on January 26, 1998. On June 10, 2005, the Regional Board determined that the Permittee's discharge met conditions to be regulated under Order No. R4-2005-0036.
3. Because the Permittee could not immediately comply with the effluent limitations set forth for chloride in Order No. R4-2005-0036, the Regional Board also adopted Time

September 5, 2008

Schedule Order (TSO No. R4-2005-0043, on June 29, 2005, prescribing higher interim limits for chloride discharges.

4. On March 12, 2007, the Permittee completed the construction of a drain bypass to divert non-stormwater discharges from Discharge Serial No. 001 [i.e., up to 600,000 gallons per day (gpd) of drainage/overflow from the East Side lakes and ponds, up to 100,000 gpd of irrigation run-off, and up to 50,000 gpd of midway (walkway throughout the park) washdown], and Discharge Serial No. 002 (i.e., up to 20,000 gpd of duck pond overflow) to Discharge Serial No. 003.
5. Order No. 98-005 (Part I.2 Page 4) includes the following effluent limitations for chloride, TDS, settleable solids, O&G, TSS, and residual chlorine:

Constituent	Unit of Measure	Discharge Limitations (Daily Maximum)	Discharge Limitations (Monthly Average)
Chloride	mg/L	175	--
TDS	mg/L	1,000	--
Settleable Solids	ml/L	0.3	0.1
O&G	mg/L	15	10
TSS	mg/L	150	50
Residual Chlorine	mg/L	0.1	--

mg/L = milligrams/liter; ml/L = milliliters/liter

6. Order No. R4-2005-0036 (Part I.B.4, subsections (a) and (b), Pages 11-13) includes the following effluent limitations for TSS, turbidity, biochemical oxygen demand (BOD<sub>5</sub>), fecal coliform, settleable solids, residual chlorine, copper, sulfate, and chloride:

Constituent	Unit of Measure	Discharge Limitations (Daily Maximum)	Discharge Limitations (Monthly Average)
TSS	mg/L	75	50
Turbidity	NTU	75	50
BOD <sub>5</sub> 20°C	mg/L	30	20
Fecal Coliform	MPN/100 ml	400	200
Settleable Solids	ml/L	0.3	0.1
Residual Chlorine	mg/L	0.1	--
Copper	µg/L	39.2	19.5
Sulfate	mg/L	400	--
Chloride*	mg/L	175	175

mg/L = milligrams/liter; µg/L = micrograms/liter; ml/L = milliliters/liter; MPN/100 mL = Most Probable Number/100 milliliters; NTU = nephelometric turbidity units

\* Interim limits in TSO No. R4-2005-0043

7. Order No. R4-2005-0036 (Part I.B.5, Page 14) includes the following interim effluent limitations for copper.

Pollutants (units)	Maximum Daily Effluent Limitations (MDELs)		
	Discharge Serial No. 001	Discharge Serial No. 002	Discharge Serial No. 003
Copper (µg/L)	32	--	240

µg/L = micrograms/liter

8. Any discharge containing pollutants violating the effluent limitations set in the waste discharge requirements is prohibited by CWC § 13376.
9. Among the provisions in the Permittee's waste discharge requirements are the requirements to implement a discharge monitoring program and to prepare and submit quarterly NPDES self-monitoring reports to the Regional Board pursuant to the authority of CWC § 13383.
10. Three-hundred and eighteen (318) violations of Order Nos. 98-005, R4-2005-0036 and R4-2005-0043 were noted in the Permittee's self-monitoring reports during the periods June 2002 through November 2002, February 2003 through September 2003, May 2004 through June 2005, and July 2005 through August 2007. These violations include effluent limit exceedances for chloride, TDS, settleable solids, TSS, O&G, turbidity, BOD<sub>5</sub>, residual chlorine, copper, sulfate, and fecal coliform. The violations are identified in Table 1 attached hereto and incorporated herein by reference.
11. CWC § 13385(h) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to CWC § 13385(h)(2) "a serious violation is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of Part 123.45 of Title 40 of the Code of Federal Regulations specifies the Group I and II pollutants."
12. CWC § 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the permittee violates a waste discharge requirement effluent limitation in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations within that time period.
13. A portion of the penalty not to exceed fifteen thousand dollars (\$15,000) plus fifty percent (50%) of the penalty amount that exceeds fifteen thousand dollars (\$15,000) may be directed to a Supplemental Environmental Project (SEP) pursuant to CWC § 13385(l).

14. The maximum amount of administrative civil liability assessable pursuant to CWC § 13385(c) is \$10,000 per day of violation plus \$10 times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

**YOU ARE HEREBY GIVEN NOTICE THAT:**

15. The Chief Deputy Executive Officer proposes that the Permittee be assessed a mandatory minimum penalty in the amount of \$945,000 for the violations which occurred during the periods June 2002 through November 2002, February 2003 through September 2003, May 2004 through June 2005, and July 2005 through August 2007. Refer to Table 1 for the calculation of the amount of mandatory minimum penalty.
16. A hearing shall be conducted on this Complaint by the Regional Board or Regional Board Hearing Panel (Hearing Panel) within 90 days after service of this Complaint on the Permittee pursuant to CWC §§ 13228.14 and 13323, unless the Permittee waives the hearing and pays the recommended penalty. The Permittee will be notified of the date, time and location of the hearing at least ten (10) days prior to the hearing date.
17. The Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability in a greater amount.
18. The Permittee may waive the right to a hearing. Should the Permittee choose to waive the right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return the executed waiver to the Regional Board at 320 West 4<sup>th</sup> Street, Suite 200, Los Angeles, CA 90013, to be received by the Regional Board by 5:00 pm on October 6, 2008. If the hearing is waived, the following options are available to satisfy the civil liability:
  - a. A check in the amount of \$945,000 (payable to the State Water Pollution Cleanup and Abatement Account) shall accompany the signed waiver; or
  - b. The Permittee may propose to pay up to \$480,000 of the civil liability by contributing to a SEP on the Regional Board approved SEP List. The approved SEP list is available at the Regional Board's web site at:

[http://www.waterboards.ca.gov/losangeles/water\\_issues/programs/enforcement/sep\\_list.pdf](http://www.waterboards.ca.gov/losangeles/water_issues/programs/enforcement/sep_list.pdf)

In the event that the Permittee elects to contribute to a SEP, a check in the amount of \$465,000 (payable to the State Water Pollution Cleanup and Abatement Account) shall accompany the signed waiver along with a written statement indicating the SEP chosen and proof of payment of the penalty balance to the SEP shall be submitted to the Regional Board by 5:00 pm on October 6, 2008.

19. Notwithstanding the issuance of this Complaint, the Regional Board shall retain the authority to assess additional penalties for violations of the requirements of the

Permittee's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.

20. This enforcement action is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code § 21000 et seq., in accordance with California Code of Regulations, title 14, § 15321.
21. Regulations of the US Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.



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Deborah J. Smith  
Chief Deputy Executive Officer  
Los Angeles Regional Water Quality Control Board

September 5, 2008